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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

16 TEKION CORP.,
17 Plaintiff,
18 v.
19 CDK GLOBAL, LLC,
20 Defendant.

Case No.: 3:24-cv-08879-JSC

22 CDK GLOBAL, LLC,
23 Plaintiff,
24 v.
25 TEKION CORP.,
26 Defendant.

Case No.: 3:25-cv-1394-JSC

~~[PROPOSED]~~ **STIPULATED ORDER
REGARDING DISCOVERY OF
ELECTRONICALLY STORED
INFORMATION**

Judge: Hon. Jacqueline Scott Corley

1 Upon the stipulation of the Parties, the Court ORDERS as follows:

2 1. This Order supplements all other discovery rules and orders. It streamlines
3 Electronically Stored Information (“ESI”) production to promote a “just, speedy, and inexpensive
4 determination” of this action, as required by Federal Rule of Civil Procedure 1.

5 2. This Order may be modified at the Court’s discretion or by stipulation.

6 3. The Parties are expected to comply with the District’s E-Discovery Guidelines
7 (“Guidelines”) and are encouraged to employ the District’s Checklist for Rule 26(f) Meet and
8 Confer regarding Electronically Stored Information.

9 4. **Disclosure:** Pursuant to Federal Rules of Civil Procedure 26(a) and 26(g), and to
10 the extent not already disclosed, the Parties shall disclose the following information.

11 a. **Custodians:** Each Party will identify to the other side up to ten (10)
12 custodians believed most likely to have discoverable ESI in their possession,
13 custody, or control (hereinafter, “Document Custodians”). The Document
14 Custodians shall be identified by name, title, and a brief description of their
15 connection to this case. The Parties agree to mutually exchange Document
16 Custodians on September 12, 2025.

17 b. **Additional Custodians:** If, after the Parties identify Document Custodians
18 as set forth in Section 4(a), a Requesting Party believes that additional
19 Document Custodians should be added, then the Requesting Party shall
20 advise the Producing Party in writing of up to five (5) proposed additional
21 Document Custodians and the basis for the request. If the Parties have not
22 agreed whether to add the Document Custodians within seven (7) days of
23 the Requesting Party’s request, or another deadline as agreed upon by the
24 Parties acting in good faith, then the matter may be brought to the Court in
25 accordance with the Court’s procedures. Nothing in this paragraph waives
26 any objection by a Producing Party that further investigation, discovery, or
27 document production is needed before determining the necessity or lack
28 thereof of additional Document Custodians.

1 c. **Data Sources:** The Producing Party will inform the Requesting Party about
 2 which data repositories within the Producing Party's possession, custody, or
 3 control have been searched and/or collected from to identify potentially
 4 responsive or relevant documents or ESI.

5 d. The Parties agree to meet and confer regarding the identification of any
 6 additional data repositories with potentially responsive information, in
 7 compliance with the Guidelines for the Discovery of Electronically Stored
 8 Information (ESI Guidelines) for the Northern District of California.

9 5. **Search:** The Parties agree that each Producing Party is best situated to determine
 10 the most appropriate method or methods for that Producing Party to search, collect, cull, and
 11 produce documents responsive to discovery.

12 **Search Terms:** Each Producing Party may—but is not required to—use search terms to
 13 locate potentially relevant documents for collection and/or culling after collection. As a general
 14 matter, each Producing Party will use search terms for searching email and other electronic
 15 communications, and other sources that are readily amenable to search terms. For sources not
 16 readily amenable to search terms, each Producing Party is best equipped to determine whether
 17 search terms or other approaches—such as retrieval of documents and sources identified during
 18 custodial interviews—is appropriate for each such source. For document collection or culling
 19 using search terms, the Producing Party will provide to the Requesting Party its suggested search
 20 terms and a hit report that shows the number of documents that hit on the search terms out of the
 21 total number of documents for each custodian. The Requesting Party will have seven (7) days, or
 22 another deadline agreed upon by the Parties acting in good faith, to add or propose modifications
 23 to the Requesting Party's terms. If the Producing Party objects to the Requesting Party's
 24 additional or modified terms based on overbreadth or burden, then the Producing Party will
 25 produce a hit count for the disputed terms and propose alternative terms. If the Parties continue
 26 to disagree, they will meet and confer to resolve the search terms.

27 6. **TAR:** If a Party intends to use Technology Assisted Review ("TAR") (including
 28 Continuous Active Learning), the Parties will meet and confer regarding a separate TAR protocol

1 to govern that process. For avoidance of doubt, nothing in this provision modifies the parties' rights
2 and obligations under the Federal Rules of Civil Procedure with respect to TAR, and this provision
3 neither implies nor waives a Receiving Party's right to object to a Producing Party's use of TAR,
4 nor a Producing Party's right to use TAR in a reasonable manner in the absence of agreement on a
5 protocol.

6 7. **Other Review Procedures:** Nothing in this Order may be construed or interpreted
7 as precluding a Producing Party from performing a responsiveness review to determine if
8 documents captured by search terms are in fact relevant to the Requesting Party's discovery
9 requests. Similarly, nothing may be construed or interpreted as precluding a Producing Party from
10 performing, by any means, a privilege review of documents. Further, nothing in this Order requires
11 the production of documents that are irrelevant, privileged, or otherwise protected from disclosure
12 merely because the documents hit upon a search term.

13 8. **Known, Responsive ESI:** Specific, non-duplicative ESI that is identified by a Party
14 as responsive to a discovery request shall not be withheld from review or production solely on the
15 grounds that it was not identified by (or is subject to an exclusion set forth in) the protocols
16 described in, or developed in accordance with, this Order.

17 9. **Production and Supplementation of ESI:** Production of responsive, non-
18 privileged documents shall proceed on a rolling basis and be substantially completed in view of the
19 Scheduling Order entered in this case. The parties may agree to a mutual date for substantial
20 completion of document production.

21 10. **Preservation:** The Parties agree that parties will take all reasonable steps to preserve
22 non-duplicative, relevant information currently in their possession, custody, or control.

23 11. **Production Format:** The Parties agree to produce documents in the formats
24 described in Appendix 2 to this Order. If particular documents warrant a different format, the
25 Parties will cooperate to arrange for the mutually acceptable production of such documents. The
26 Parties agree, to the extent practicable, not to materially degrade the searchability of documents as
27 part of the document production process.

28 12. **Enterprise Messaging, Mobile Device Data, and Other Communication Tools:**

1 a. The Parties will disclose at the outset any use of enterprise messaging tools
 2 used in the course of business (*e.g.*, Slack, MS Teams, Zoom, WhatsApp,
 3 Google Chat, Sametime, Signal, Telegram, etc.). The Parties will meet and
 4 confer regarding procedures for inclusive collection of such data, the format
 5 of the production, metadata fields, and other issues unique to this type of
 6 data. Electronically stored information associated with enterprise messaging
 7 tools should be collected and reviewed with emails and other custodian/non-
 8 custodial data sources. Documents produced from an enterprise messaging
 9 platform must clearly indicate, either in a unique metadata field or on the
 10 face of the document, the specific platform the documents are from.

11 b. The Parties agree to disclose whether any Document Custodians' mobile
 12 devices contain unique sources of relevant ESI, and to meet and confer
 13 regarding procedures for the inclusive collection of such data, the format of
 14 production, metadata fields, and other issues unique to this type of data.

15 13. **Deduplication and Threading:** A Party should use reasonable efforts to produce
 16 only a single copy of a responsive document. "Duplicate ESI" means files that are exact duplicates
 17 based on the files' MD5 hash, SHA-1 hash, email duplicate spare messages, or SHA-256 hash
 18 values. The Parties will make reasonable efforts to not produce Duplicate ESI. To the extent
 19 identical copies of documents appear in the files of multiple Document Custodians, the Producing
 20 Party will use reasonable efforts to produce only one such identical copy across all Document
 21 Custodians based on MD5 or SHA-1 hash values at the document level for file system data or the
 22 email family level for emails. De-duplication will not break apart families. When Duplicate ESI
 23 exists in the files of multiple Document Custodians, the names of all Document Custodians who
 24 were in possession of a document prior to de-duplication will be populated in the "AllCustodians"
 25 field identified in Appendix 1.

26 14. **Privilege Logs, Redactions, and Challenging Privilege:** A producing party shall
 27 create a privilege log of all documents fully withheld from production or produced with redactions
 28 on the basis of a privilege or protection, unless otherwise agreed or excepted by this Agreement

1 and Order, and produced in Excel format. Privilege logs shall include a unique identification
 2 number for each document and the basis for the claim (attorney-client privileged or work-product
 3 protection). For ESI, the privilege log may be generated using available non-privileged metadata
 4 that the parties have agreed to produce, including author/recipient or to/from/cc/bcc names or email
 5 addresses; the subject matter or title; and date created. Should the available metadata provide
 6 insufficient information for the purpose of evaluating the privilege claim asserted, the producing
 7 party shall include such additional information as required by the Federal Rules of Civil Procedure.
 8 Privilege logs will be produced to all other parties on a rolling basis no later than 60 days after
 9 delivering a production unless an earlier deadline is agreed to by the parties.

- 10 a. With respect to privileged or work-product information generated after the
 11 filing of the complaint in *Tekion, Inc. v. CDK Global, Inc.*, Case No. 3:24-
 12 cv-08879-JSC (N.D. Cal.), parties are not required to include any such
 13 information in privilege logs.
- 14 b. Absent a showing of good cause, activities undertaken in compliance with
 15 the duty to preserve information are protected from disclosure and discovery
 16 under Fed. R. Civ. P. 26(b)(3)(A) and (B).
- 17 c. Pursuant to Fed. R. Evid. 502(d), the production of any documents in this
 18 proceeding shall not, for the purposes of this proceeding or any other federal
 19 or state proceeding, constitute a waiver by the producing party of any
 20 privilege applicable to those documents, including the attorney-client
 21 privilege, attorney work-product protection, or any other privilege or
 22 protection recognized by law. If a Producing Party inadvertently produces
 23 material that is subject to a claim of privilege or work product or other
 24 protection, the obligations of the Requesting Party/Receiving Party are those
 25 set forth in Sections 12 and 15 of the Stipulated Protective Order.

26 15. **Cost Shifting:** As in all cases, costs may be shifted for disproportionate ESI
 27 production requests pursuant to Federal Rule of Civil Procedure 26. Likewise, a Party's
 28 nonresponsive or dilatory discovery tactics are cost-shifting considerations. A Party's meaningful

compliance with this Order and efforts to promote efficiency and reduce costs will be considered in cost-shifting determinations.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 25, 2025


Honorable Jacqueline Scott Corley
United States District Judge

By: /s/ Vineet Bhatia

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APPENDIX 1

FIELDS AND METADATA TO BE PRODUCED

1. The load files accompanying scanned paper documents will include the following objective coding fields, to the extent applicable:

Field	Field Description
BEGBATES	First Bates identifier of item
ENDBATES	Last Bates identifier of item
BEGATTACH	Starting Bates number of a document family
ENDATTACH	Ending Bates number of a document family
PAGECOUNT	Number of pages
TEXTLINK	Link to text file for the document
CUSTODIAN	Name of custodian or custodial file
CONFIDENTIALITY	Confidentiality designation assigned to document
REDACTION	Indicate whether document was redacted electronically after scanning

2. The following Metadata fields shall be included in Load files accompanying ESI, to the extent available and/or unredacted:

Field ¹	Field Description for Electronic Documents	Field Description for Emails, Messages (e.g., Slack, Messenger, Google Chat, etc.), or Calendar Entries
BEGBATES	First Bates identifier of item	First Bates identifier of item
ENDBATES	Last Bates identifier of item	Last Bates identifier of item

¹ Field Names can vary from system to system and even between different versions of systems. Thus, Parties are to be guided by these Field Names and Field Descriptions when identifying the metadata fields to be produced for a given document pursuant to this ESI Protocol.

Field ¹	Field Description for Electronic Documents	Field Description for Emails, Messages (e.g., Slack, Messenger, Google Chat, etc.), or Calendar Entries
BEGATTACH	Starting Bates number of a document family	Starting Bates number of a document family
ENDATTACH	Ending Bates number of a document family	Ending Bates number of a document family
PRODVOL	Production volume	Production volume
PAGECOUNT	Number of pages	Number of pages
ATTACHCOUNT	Number of files attached to parent	Number of files attached to parent
CUSTODIAN	Custodian of the document	Custodian of the document
ALLCUSTODIANS	Individual(s) from whom the document was obtained and de-duplicated out during global de-duplication	Individual(s) from whom the document was obtained and de-duplicated out during global de-duplication
CONFIDENTIALITY	Confidentiality designation	Confidentiality designation
AUTHOR	Any value populated in the Author field of the document properties	n/a
FROM	n/a	Sender of email message, message sent via messaging platform, or calendar invite

Field ¹	Field Description for Electronic Documents	Field Description for Emails, Messages (e.g., Slack, Messenger, Google Chat, etc.), or Calendar Entries
TO	n/a	All recipients that were included on the “To” line of an email message or calendar invite. Recipients of a message sent via messaging platform.
CC	n/a	All recipients that were included on the “CC” line of message or calendar invite
BCC	n/a	All recipients that were included on the “BCC” line of message or calendar invite
EMAILSUBJECT	n/a	Subject of message or calendar invite pulled from the document properties. Name of messaging channel.
TITLE	Any value populated in the Title field of the document properties	n/a
DATETIMECREATED	Date and time file was created according to filesystem information (format: MM/DD/YYYY HH:mm:ss)	n/a
DATETIMEMODIFIED	Date and time file was last modified according to filesystem information (format: MM/DD/YYYY HH:mm:ss)	n/a

Field ¹	Field Description for Electronic Documents	Field Description for Emails, Messages (e.g., Slack, Messenger, Google Chat, etc.), or Calendar Entries
DATETIMESENT	n/a	The sent date and time of the message in the format MM/DD/YYYY HH:mm:ss. Date of 24-hour segment of message.
DATETIMERECEIVED	n/a	The received date of the message in the format MM/DD/YYYY HH:mm:ss
FILENAME	Contents of this Metadata field, or an equivalent	Contents of this Metadata field, or an equivalent
DOCEXT	File extension of document pulled from the document properties	File extension of document pulled from the document properties
FILESIZE	Size of the file in bytes	Size of the file in bytes
FILEPATH	The directory structure of the original file(s). Any container name is included in the path.	The directory structure of the original file(s). Any container name is included in the path.
HASHVALUE	MD5 or SHA1 hash of the document	MD5 or SHA1 hash of the email
THREADID	n/a	Unique identification number that permits threading of email or chat conversations. For instance, unique MS Outlook identification number ("PR_CONVERSATION_IN_DEX") is 22 bytes in length, followed by zero or more child blocks each 5 bytes in

Field ¹	Field Description for Electronic Documents	Field Description for Emails, Messages (e.g., Slack, Messenger, Google Chat, etc.), or Calendar Entries
		length, that permits email threading in review software.
ITEMTYPE	Identifies whether the file is an email, attachment, or stand- alone efile.	Identifies whether the file is an email, attachment, or stand- alone efile.
NATIVEFILEPATH	Link to native file (if any)	Link to native file (if any)
TEXTFILEPATH	Link to extracted text/OCR file for the document	Link to extracted text/OCR file for the email
REDACTION	Identifies if a document has been redacted	Identifies if a document has been redacted
HASHIDDENCONTENT	Identifies if a document contains hidden content. ²	

These Metadata field values will be provided to the extent available at the time of collection and processing, except that they may be redacted if privileged or if the information in the Metadata is protected by law or Court Order. This list of fields does not create any obligation to create or manually code fields that do not exist as part of the original Metadata of the document.

² “Hidden Content” for purposes of this field shall include track changes, comments, hidden slides, hidden columns, hidden worksheets, or other hidden text.

APPENDIX 2**PRODUCTION AND LOAD FILE FORMAT FOR DOCUMENTS AND ESI****1. Delimited Text File.**

A delimited text file (.DAT File) containing the fields listed in Appendix 1 should be provided. The delimiters for the file should be Concordance defaults accordingly:

Comma	ASCII character 20 (¶)
Quote	ASCII character 254 (þ)
Newline	ASCII character 174 (®)

- The first record should contain the field names in the order of the data.
- All date fields should be produced in mm/dd/yyyy format.
- Use carriage-return line-feed to indicate the start of the next record.
- Load files should not span across media (*e.g.*, CDs, DVDs, Hard Drives, etc.); a separate volume should be created for each piece of media delivered.
- The name of the data load file should mirror the name of the delivery volume, and should have a .DAT extension (*i.e.*, ABC001.DAT).
- The volume names should be consecutive (*i.e.*, ABC001, ABC002, *et. seq.*).
- If Foreign Language / Unicode text exists, DAT file shall be in appropriate UTF-8 or UTF-16 format.

2. Image Cross-Reference File (.opt): The Opticon cross-reference file is a comma delimited file consisting of six fields per line. There must be a line in the cross-reference file for every image in the database. The format for the file is as follows:

ImageID,VolumeLabel,ImageFilePath,DocumentBreak,FolderBreak,BoxBreak,PageCount

Further definitions and instructions as follows:

ImageID	The unique designation that Concordance and Opticon use to identify an image. This should be the BegBates Number of the Document.
VolumeLabel	The name of the volume.
ImageFilePath	The full path to the image file.

DocumentBreak	If this field contains the letter "Y," then this is the first page of a Document. If this field is blank, then this page is not the first page of a Document.
FolderBreak	Leave empty.
BoxBreak	Leave empty.
PageCount	Number of pages in the Document.

- The name of the image load file should mirror the name of the delivery volume, and should have the appropriate extension (*e.g.*, ABC001.LFP).
- The volume names should be consecutive (*i.e.*, ABC001, ABC002, *et. seq.*).
- There should be one row in the load file per TIFF image.
- Every image in the delivery volume should be contained in the image load file.
- The image key should be named the same as the Bates number of the page.
- Load files should not span across media (*e.g.*, CDs, DVDs, Hard Drives, *Etc.*), *i.e.*, a separate volume should be created for each piece of media delivered.

3. OCR / Extracted Text Files: OCR or Extracted Text files shall be provided in a separate folder containing Document level text files. OCR text should be produced for hard copy documents and for any ESI where extracted text cannot be provided, using industry standard OCR technology (Redacted text will not be produced). File name convention shall be: Match BegBates Number. If Foreign Language / Unicode text exists, TEXT files shall be in appropriate UTF-8 or UTF-16 format.

4. TIFFs: Documents that exist only in hard copy format shall be scanned and produced as TIFFs. Documents that exist as ESI shall be converted and produced as TIFFs, except as provided in Paragraph 7 below. Unless excepted below, single page, black and white, Group IV TIFFs should be provided, at least 300 dots per inch (dpi) for all documents. Each TIFF image shall be named according to a unique corresponding Bates number associated with the document. Each image shall be branded according to the Bates number and the agreed upon confidentiality designation. Original document orientation should be maintained (*i.e.*, portrait to portrait and landscape to landscape). Where the TIFF image is unreadable or has materially degraded the

1 quality of the original, the Producing Party shall provide a higher quality TIFF image or the native
2 or original file.

3 **5. Color:** The Parties may request color copies where color is necessary to accurately
4 interpret the document. The Parties agree to negotiate in good faith over producing images in color.

5 **6. Text Files:** A single multi-page text file shall be provided for each document, and
6 the filename should match its respective TIFF filename. When possible, the text of native files
7 should be extracted directly from the native file. Text files will not contain the redacted portions
8 of the documents. A commercially acceptable technology for optical character recognition “OCR”
9 shall be used for all scanned, hard copy documents and for documents with redactions.

10 **7. Native files:** Spreadsheet-type files (*e.g.*, Microsoft Excel or Google Sheets) and
11 presentation files (*e.g.*, PowerPoint or Google Slides) will be produced in native format unless
12 redacted, in which instance, spreadsheets will be produced in color (as appropriate) TIFF with OCR
13 Text Files. To the extent that they are produced in this action, audio, video, and multi-media files
14 will be produced in native format. If PDF or word processing files (*e.g.*, Microsoft Word) contain
15 comments, notes, revisions, track changes, hidden text, and/or annotations that cannot be viewed
16 in TIFF, the document must include the metadata designation for HASHIDDENCONTENT, and
17 Requesting party may request a file in native format. Native files will be produced with a link in
18 the NATIVEFILEPATH field, along with extracted text (where extracted text is available) and
19 applicable metadata fields set forth in paragraph 4 above. A Bates numbered TIFF placeholder
20 indicating that the document was provided in native format must accompany every native file.

21 **8. Confidentiality Designation:** Responsive documents in TIFF format will be
22 stamped with the appropriate confidentiality designations in accordance with the Protective Order
23 entered in this matter. Each responsive document produced in native format will have its
24 confidentiality designation identified in the filename of the native file and indicated on its
25 corresponding TIFF placeholder.

26 **9. Families, Embedded Files, and Hyperlinks:** Parent-child relationships will be
27 maintained in production. Links within a document are not considered attachments. A Producing
28 Party is not required to match a responsive hyperlinked or embedded document identified in a

1 parent email, including hyperlinked documents utilizing Google Workspace, Microsoft Office's
2 "Share Documents Via Link" feature, or other document sharing platforms, with the parent email
3 to which the document was hyperlinked or embedded in the first instance, but will endeavor to do
4 so for a reasonable number of such documents upon request. Documents extracted from embedded
5 files shall be populated with the BEGATTACH and ENDATTACH metadata fields to show the
6 family relationship. Embedded or hyperlinked files that are not otherwise produced will be
7 produced upon reasonable request. Other links in email to non-file sources, such as a website or
8 QR code URL destinations need not be produced. If documents cannot be extracted from links at
9 the time of collection, the Parties agree to promptly meet and confer to discuss alternative methods
10 of collection and production.